

OVERVIEW OF THE COOPERATIVE MULTI-SITE AGREEMENT

**PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND THE U.S. AIR FORCE, U.S. ARMY, U.S. NAVY,
AND THE DEFENSE LOGISTICS AGENCY**

Introduction

The Pennsylvania Department of Environmental Protection (DEP), the United States Army, Navy, Air Force and Defense Logistics Agency, in coordination with the Department of Defense (DoD) completed the negotiation of a Cooperative Multi-Site Agreement that will address the assessment and remediation of selected sites in the Commonwealth by 2010. The Agreement is written as a "dynamic document" with the flexibility to incorporate new concepts and ideas on an ongoing basis.

Pennsylvania's Land Recycling and Environmental Remediation Standards Act (Act 2) approaches will be used, including cleanup standards, site assessment procedures, liability relief, and the options to use site specific, risk-based remediation criteria. This voluntary agreement incorporates the Act 2 processes that effectively and efficiently ensure protection of human health and the environment while streamlining review and approval of cleanup documentation. The use of innovative technologies, state funding, work sharing, the creation of economic and job opportunities, as well as new ways to assure mutual accountability and long term planning are among the concepts addressed.

Features of the Agreement

All parties agree to voluntarily be bound to a course of conduct. The Agreement has mutual incentives, accountability provisions, and a dispute resolution process in lieu of stipulated penalties and other standard enforcement provisions. If a technical dispute arises, the affected parties will use a sequential dispute resolution process consistent with the Defense/Commonwealth Memorandum of Agreement (DCMOA). However, such parties will reserve their independent legal rights and authorities. Emphasis is placed on the implementation of a problem solving process rather than rigidly defined proscriptive procedures for handling cleanup and working relationships. The Agreement is structured in a way that can serve as a pilot approach for other States to evaluate, if they are interested in Pennsylvania's experience, and wish to replicate its provisions. Other states already have expressed a strong interest in obtaining a similar agreement with the military.

One of the primary goals of the Agreement is to maximize the use of funds and resources to ensure that work is accomplished in the most cost effective and efficient manner. While each Military Component receives a separate appropriation of funds from Congress, the Agreement attempts to maximize cost savings and resource efficiencies across service programs with a 12-year integrated plan.

The Agreement includes an inventory of over 1000 military sites in Pennsylvania which are listed as: 1) Scheduled sites (53 sites), 2) Deferred sites (364 sites), and 3) Study sites (659 sites).

This is the first comprehensive state inventory ever conducted of all military properties which have been or may be subject to evaluation and, if necessary, remediation. The "Scheduled Sites" are those locations at which actual assessment and remediation is already planned under the Agreement. The "Study Sites" are those locations previously determined to be completed or requiring no response actions by the military. The "Deferred Sites" are locations where assessment and/or remediation activities have taken or will take place under other systematic processes such as Federal CERCLA or BRAC programs. It is not feasible or warranted to include these sites in the Agreement under the current statutory and funding structure, but certain sites may benefit by opting into the Act 2 standards or economic development provisions.

Implementation of this Agreement includes a variety of other innovations such as State intervention where a third party is financially indigent or uncooperative and has contributed to contamination at a military site, and State assistance in maintaining land use controls such as restrictions on the use of groundwater. In addition, the Agreement will facilitate combining efforts in enterprise zone projects where the Military Components develop a cleanup plan for the entire site but is only responsible for a limited remediation initiative. State funds would be used to address any remaining contamination at the site which is not the responsibility of the Military Components. While examples of cooperative efforts are included in the Agreement, the actual language focuses on concepts rather than specifics. The specific cooperative opportunities will be addressed in each year's Annual Work Plan on a case-by-case basis.

A generic site resolution process is incorporated into the Agreement. This process results in liability relief at qualifying sites. Several categories of sites exist where DEP has not reviewed documentation where the Military Components made a determination that no further action is required. A pilot "study" process will be implemented to address these sites with the goal of assuring that either no further action will be necessary, in which case an official state sign off will be provided; or identifying classes of sites where further evaluation may be required.

The Agreement also has economic development/transfer of real estate property language to facilitate the transfer of property. Public participation and involvement is highlighted in the Agreement covering both federal and state mandated requirements.

Measuring progress and using incentives to encourage the early completion of the agreed-upon tasks is included. Periodic evaluations of cleanup objectives will be made by comparing the annual plans and master plan with actual accomplishments and cost to complete.